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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5786 of 2007
Date of decision: 12.11.2007

Balwinder Singh **...Petitioner**

Versus

Mohan Lal **...Respondent**

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CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

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Present: Mr. Amardeep Singh, Advocate for the petitioner.

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RAJESH BINDAL, J.

The challenge in the present petition is to the order dated September 18, 2007 passed by learned Additional Civil Judge (Senior Division), Fazilka whereby application dated December 5, 2006 filed by the petitioner/defendant for amendment of written statement was dismissed.

The suit in the present case was filed by respondent on August 23, 2003 for recovery of Rs. 3,82,772/- on account of principal amount and interest. After filing the written statement on January 8, 2004 by the petitioner, respondent/plaintiff had already concluded his entire evidence and the case was fixed for the evidence of the petitioner/defendant, when the application for amendment of the written statement was filed. It is not disputed that entire facts, which are sought to be put by way of amended written statement were well within the knowledge of the petitioner/defendant at the time of filing of the written statement originally. The stage at which the application for permission to amend the written statement is sought to be filed is nothing else but an effort to fill in the lacuna in the pleadings as the cards of the respondent/plaintiff were open after he had already led his evidence in the suit. In the amended written statement, the plea sought to be taken is that infact the petitioner/defendant

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had already cleared his account with the respondent/plaintiff firm is such a plea which ought to have been taken at the very first instance.

Accordingly, I do not find any merit in the present petition and the same is dismissed.

November 12, 2007 **(Rajesh Bindal)**
Pka **Judge**